

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

SKYWORKS, LTD., *et al.*,

Plaintiffs,

v.

CENTERS FOR DISEASE CONTROL AND
PREVENTION, *et al.*,

Defendants.

Case No. 5:20-cv-2407

Judge J. Philip Calabrese

Magistrate Judge Carmen E. Henderson

NOTICE

Defendants respectfully inform the Court of a decision in *Terkel v. Centers for Disease Control & Prevention*, No. 20-564 (E.D. Tex.), in which the court entered a declaratory judgment for the plaintiffs in that case that the Centers for Disease Control and Prevention (CDC) Order at issue here exceeds Congress's powers under the Commerce Clause and the Necessary and Proper Clause. *See Terkel v. Centers for Disease Control & Prevention*, No. 20-564, 2021 U.S. Dist. LEXIS 33570 (E.D. Tex. Feb. 25, 2021). The court in *Terkel* dismissed two plaintiffs for lack of standing, *id.* at *9–10, and, for the five “remaining plaintiffs,” entered “summary judgment granting declaratory relief in their favor,” *id.* at *31. Defendants respectfully disagree with the *Terkel* decision, and the government has filed an appeal. Defendants further note that (1) the *Terkel* opinion's holding is irrelevant to this case, as Plaintiffs here do not contend that the CDC Order exceeds Congress's powers under the Commerce Clause and the Necessary and Proper Clause; and (2) the *Terkel* judgment does not extend beyond the plaintiffs in that case and does not prohibit the application of the Order to any other parties, including the Plaintiffs in this case, *see* 28 U.S.C. § 2201 (court may “declare the rights and other legal relations of any interested party seeking such declaration” (emphasis added)).

Dated: March 3, 2021

Respectfully submitted,

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/s/ Leslie Cooper Vigen
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Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify I served this document today by filing it using the Court's CM/ECF system, which will automatically notify all counsel of record.

Dated: March 3, 2021

/s/ Leslie Cooper Vigen

Trial Attorney